



The Attorney General of Texas

January 23, 1978

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Honorable Alton D. Ice,
Executive Director
The Advisory Council for Technical-
Vocational Education in Texas
P. O. Box 1886
Austin, Texas 78767

Opinion No. H-1119

Re: Whether Advisory Council for
Technical-Vocational Education is a
State agency.

Dear Mr. Ice:

You inquire whether the Advisory Council for Technical-Vocational Education is a State agency, so that its executive head may claim actual expenses under the following provision of the Appropriations Act:

Sec. 15. EXCEPTIONS TO THE PER DIEM AND TRAVEL ALLOWANCES.

a. Judicial officers authorized by law and executive heads of State agencies, including the Executive Director of the Legislative Council and Secretary of the Senate, shall be reimbursed for their actual meals, lodging and airport parking fees (exclusive of expenses related to personally owned automobiles and commercial transportation which shall be paid as provided under other sections of this article) when traveling on official business either in or out of the state.

General Appropriations Act, Acts 1977, 65th Leg., ch. 872, art. V, § 15a.

The Advisory Council was established pursuant to chapter 31 of the Education Code to comply with the federal Vocational Education Act of 1963, as amended. Education Code § 31.02; see 20 U.S.C. §§ 2301 - 2461. The federal act provides financial assistance to the states to improve vocational education. Participating states must designate one state board as the sole agency responsible for administering programs under the Act. 20 U.S.C. § 2304(a)(1). In Texas, the State Board for Vocational Education has this function. Education Code §§ 11.41, 31.33, 31.39, 31.40. The state must also establish an advisory council to advise the state board on planning and policy, to evaluate vocational education programs, and to report annually to the federal government on the effectiveness of the state's programs. 20 U.S.C. § 2305. The council fills this requirement.

The essence of your question is whether the council is an independent body or is a branch or division of the Central Education Agency. The council's role is one of recommending, and the State Board of Vocational Education has the final authority to accept or reject the council's recommendations. Education Code § 31.39(a). However, we believe there are numerous statutory indications that the Legislature intended that the council be independent. The council was created by statute and specifically replaces an earlier advisory body created by administrative action of the State Board of Vocational Education. Education Code § 31.32. It was the purpose of the statute to make the advisory council the one part of the state's educational system which is responsible for the development of a program to train manpower in order to further industrial and economic development. Education Code § 31.02.

Although the members of the council are appointed by the State Board of Education, they are first recommended by the Governor and then confirmed by the Senate. Education Code § 31.12. The council elects its own officers, adopts its own rules, hires its own staff and calls its own meetings. Education Code §§ 31.14, 31.15, 31.18 and 31.19. The council is given extensive authority to make studies and recommendations, and the State Board of Vocational Education is required by law to act on those recommendations. Education Code §§ 31.33, 31.34 and 31.39.

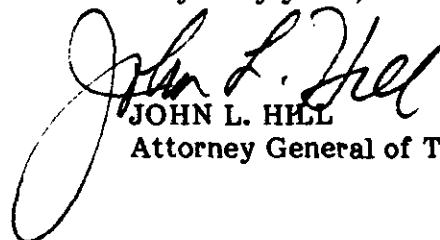
Additionally, the Texas Education Agency, along with all other Boards and agencies, is directed to cooperate with the council. Education Code § 31.36. The council may accept gifts and grants on its own authority. Education Code § 31.38. It is authorized to enter into contracts with public bodies, corporations and individuals. Education Code § 31.37. It is significant that this section of the Code refers to contracts between the council and "any other state governmental agency."

In light of the extensive, independent powers given the Advisory Council it is our view that it is a State agency within the meaning of article V, section 15a of the Appropriations Act and that its executive head is the executive director of a State agency.

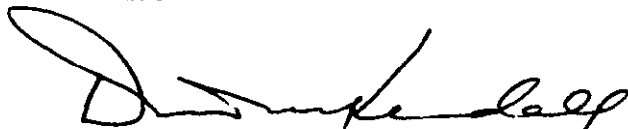
S U M M A R Y

The Advisory Council for Technical-Vocational Education in Texas is a State agency and its executive director is entitled to reimbursement for actual travel expenses under article V, section 15a of the Appropriations Act.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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